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A
CLERGYMAN'S
DEFENCE OF HIMSELF,
FOR REFUSING TO USE THE
OFFICE FOR THE BURIAL OF THE DEAD
OVER ONE WHO DESTROYED HIMSELF,
NOTWITHSTANDING THE
CORONER'S VERDICT OF MENTAL DERANGEMENT.

BY THE
HON. & REV. A. P. PERCEVAL,
RECTOR OF EAST HORSLEY, SURREY,
AND ONE OF HIS MAJESTY'S CHAPLAINS.

As we were allowed of God to be put in trust with the Gospel, so we speak, not
as pleasing men, but God, which trieth our hearts.—1 THESS. ii. 4.

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THE Clergyman, in this case, having attended the Coroner's Inquest, and heard all the evidence, and being satisfied in his own mind that there was no ground for believing the wretched man, who was of drunken and blasphemous habits, to have been out of his mind¹ at the time of committing the fatal act, refused to perform the funeral service; he offered to attend the body as chief mourner, and see it quietly interred; but he considered that the truth of religion, and the reverence due to sacred things, and the safety of others, and the clearing of his own conscience, forbade him, in this instance, to depart from the rule which the Church has laid down in such cases, and to which he had repeatedly promised obedience.

¹ His view of the state of the man's mind was corroborated by some of the jury, who, being asked, in the course of conversation, whether, upon the same evidence, they could have acquitted him of the murder of another man, acknowledged that they could not. In fact, they were not aware what the law requires to justify a verdict of *non compos*. See note at the end.

For this refusal, proceedings are threatened against him.

It will be seen that a decision, on such a question, will affect, in some degree at least, the very existence of the Divine commission in the Church of England, the spiritual authority and responsibility of the Clergy.

In order to obtain sentence against him, it must be maintained, that a clergyman both may, and must, surrender to an attorney and twelve laymen, (of whom it is uncertain that they will be all Christians, improbable that they will be all churchmen, and, as things are, hardly possible that they will all be communicants), and exercise, at their direction, the declaratory power¹ of forgiving and retaining sins, according to

¹ As the awful form in which this power is entrusted to the Clergy at Ordination, and upon which no heart can think without trembling, is not generally known, it is subjoined for the meditation of those who are inclined to pass sentence against the clergyman.

“ Receive the Holy Ghost for the Office and Work of a Priest in the Church of God, now committed unto thee by the Imposition of our hands. Whose sins thou dost forgive they are forgiven, and whose sins thou dost retain they are retained. And be thou a faithful dispenser of the Word of God, and of His Holy Sacraments, in the name of the Father, and of the Son, and of the Holy Ghost.”



A

DEFENCE,

&c.

1 THESSALONIANS II. 4.

As we were allowed of God to be put in trust with the Gospel, so we speak, not as pleasing men, but God which trieth our hearts.

As nothing can be more painful to a clergyman who desires to discharge his duty to his people, than that differences of opinion should exist between him and them, especially on matters connected with the performance of his religious duties; and as all such differences of opinion usually arise from misunderstanding the nature of the case, I believe I can hardly employ the time more profitably for us both than by endeavouring to show you that in the melancholy case which has been uppermost in all our minds during the week, I have not done without cause what I have done in it; and that, after the instructions which I have received, and the rules which have been set me, and the vows I have made, and the view which I have taken, I could not have done otherwise without violating my duty to God and man, and bringing my own soul into hazard.

I have, therefore, chosen the text before us, that I may remind you at once whom alone I must seek to please in the exercise of the religious offices, and to whom I must account for what I do. "As we have been allowed of God to be put in trust with the Gospel, so we speak, not as pleasing men, but God which trieth our hearts." By which text these two things appear, first, that the authority by which the clergy act, as ministers of religion, does not come from men, or from the laws of the country, but from God. Christ left this authority, this warrant, or commission, to the clergy of his days, the apostles, with a promise that it should continue in the Church till the end of the world: the apostles left it to the clergy who succeeded them, and these again to others, and so from clergy to clergy, by the hands of the bishops, this warrant or commission for exercising the office of a minister of religion has been handed down to these times; and will continue to be handed down till the end of the world.

The second thing which our text teaches us is, that as our warrant for exercising the office of ministers of religion comes from God, and not from man, so, in the discharge of the duties of that office, we are to be guided by what God tells us, and not by what men tell us. Let me repeat the words, "As we were allowed to be put in trust with the Gospel, so we speak, not as pleasing men, but God which trieth our hearts." So that, however desirous a clergyman may, and must be, of pleasing his people, in all things where he can do so with a safe conscience, yet, if they require him to do any thing inconsistent with what

he believes to be his duty to God, there he must stop, and say, I am sorry I cannot, but I fear God, and dare not. "For my own sake, and for your's I dare not: for my own, lest I bring my own soul into trouble; for you, lest I encourage you to do ill, by setting you so glaring an example of acting contrary to conscience, and the fear of God." And who would wish to see him act otherwise? who would wish to see any human being, whose soul must answer at the day of judgment for what he does, act contrary to what he believed to be his duty to God for the sake of pleasing man? No, brethren, I am sure you would not; I am sure you will think that I was right in acting according to the conscientious opinion I embraced, even though I should fail to convince you that that opinion was correct. At least, if there are any who would wish otherwise, I can only say I had rather they should continue to think ill of me; for I fear in such a case, they would not think *well*, unless I acted *ill*.

Let me now endeavour to state plainly to you the grounds on which I acted. The objects for which the clergy are sent, are to preserve the honour of the religion of Jesus Christ, and to teach and persuade the people committed to them to be saved; as St. Paul writes, "We are ambassadors of Christ, as though God did beseech you by us; we pray you, in Christ's stead, be ye reconciled to God." Their chief, I may say their only rule or guide in the discharge of their duty, is the Bible, the written word of God. I say the only rule, because they are not permitted to teach any thing which is contrary to this. But the Bible itself points out another help, in what

are called the laws of the Church: that is to say, the rules which have been made by the bishops and clergy who are the spiritual officers of the Church. For the bishops and clergy, who have received the commission to act as ministers of religion, in their several stations, have from time to time, by virtue of that authority, put forth rules and orders for the celebration of public worship, and for the method of performing the different rites and ceremonies. The first instance of this you will find in the fifteenth chapter of Acts, where, upon some dispute arising as to what ceremonies were to be observed, "the apostles and elders came together for to consider the matter;" and, when they had agreed about it, they made rules or decrees accordingly. And from those days till now, from time to time, as occasion required, the bishops and clergy have met to make fresh rules, or such alterations as circumstances demanded. The Church of England has followed the example set forth in the scriptures; and, like all other churches, her bishops and clergy have made such rules as their duty to God and the people seemed to them to require. These are what are called the laws of the Church. Among other things, they arranged the Prayer-book. If you will look into this, you will find, at the beginning and ending of all the different offices, directions in small print, as to when and how and where those offices are to be used. And no man is allowed to become a clergyman, and no clergyman is allowed to have the care of a parish, without first undertaking to conduct the public worship, and the different offices of religion, according to the method and rules set forth in the

Prayer-book. Now turn to the office for the burial of the dead: and, at the beginning, you will find this instruction given, "Here it is to be noted that the office ensuing is not be used for any that die unbaptized, or excommunicate, or have laid violent hands upon themselves." This is the order which I have received on this subject from the authority of the Church, to which by the laws of God, I am bound to pay obedience. To this order I have been required repeatedly to promise obedience, and so imperative is the duty of the clergy to observe these rules, that one of our bishops hesitates not to say, "that neither a man's own private fancies, nor the solicitations of his parishioners, nor the example of others, nor the authority of the administrators of the law, would be sufficient to release him from the obligation by which the law itself binds him, and by which he has solemnly promised to be held¹." Thus you see how solemnly the clergy are bound to obey the directions or rubric in the Common Prayer-book. The only thing which could, by any possibility, justify a clergyman in departing from the rules, would be if he thought that he consulted better for the good of religion, and the safety of his people by doing so. But though, in all probability, this might, in certain cases, be held sufficient to justify him; yet he would, in strictness of law, be liable to be called to account for it.

The question, then, that I had to ask myself on this melancholy occasion was, is there any thing in this case which will warrant me in departing from my

¹ Bishop Mant's Clergyman's Obligations.

instructions? If I could have persuaded myself that the unhappy man was really a madman, I should have felt justified, in my own conscience, in burying him: because a madman who does not *know* what he does, is not held guilty for what he does: and it has always been allowed to bury such. But if I could not persuade myself of this, then it was contrary to my duty to bury him.

This is the point which will prove whether there was really a difference of opinion between me and the jury, or not. If the jury really believed the man to be a madman, or frantic, or destitute of the use of reason, then there is a difference of opinion between us. But if they did not think him so mad as all that, then there is no difference of opinion between us; and all this unhappy dispute has been caused by their not understanding what extent of madness was required, by the law, to justify a verdict of mental derangement. When I say that this is the degree of madness to which the jury, if they had been properly instructed, had to look, I am speaking on the authority of one of the greatest lawyers that ever lived in this country¹.

And now, because many persons find a difficulty in understanding the nature of coroners' inquests, I will endeavour to explain that.

There are in this country two sets of laws; one for the Church; another for the State. The clergyman is the officer, in every parish, appointed by God to administer the laws of the Church; the coroner (in

¹ See note at the end.

these cases) is the officer appointed by the King to administer those of the State. Well, when a person is found dead, and the cause is not certainly known, it is forbidden, by the laws of the State, to bury him before an inquest has been held upon him: and if he destroyed himself, knowing what he did, both the laws of the Church, and the laws of the State, forbid the burial service to be used. The coroner comes first with his jury, and inquires whether the laws of the State forbid his receiving Christian burial. If he says no, then he issues his warrant to the clergyman, saying, you may lawfully permit his body to be buried; that is to say, I, on the part of the State, do not forbid it. It is then for the clergyman to inquire whether the laws of the Church do; for if the laws of the Church forbid it, then, whatever the coroner's verdict may be, he breaks his duty as a clergyman, if he uses the burial service over him.

How comes it, then, it will be asked, that persons in such a case do frequently receive burial? The answer is, because of late years the clergy have, through mistaken feelings, and (I think) inaccurate views, shrunk from the discharge of their duty in this respect. And what has been the consequence? Has there not been a fearful increase in the number of suicides? and are not these things connected? Surely there is reason to think, that if all the clergy had marked the detestable nature of this sin as the Church enjoins them, many who have committed it would have been deterred from it. But when people are led to consider that all is right if a coroner's inquest shall, as a matter of course, bring in a verdict of insanity,

what is there to check them from taking a step which, to those who have indistinct notions of religion, seems so easy a method of release from any of the troubles or discomforts of this world?

No doubt, the easiness with which verdicts of insanity are almost always returned in such cases, has placed the clergy in an unpleasant situation, and made it difficult for them to discharge their responsibility, without incurring the reputation of being harsh and uncharitable, and taking too much upon themselves. But it is their duty to look only to what the honour of religion, and the safety of their people, and the laws of the Church require of them, and then, through evil report and good report, to pursue their straightforward course. This I do believe, that if the coroners and their juries duly considered how much these easy verdicts encourage others to commit the same offence, and how much they hinder the clergy in the discharge of their duties, they would not be returned nearly so often as they are.

The reason why a clergyman cannot in safety act contrary to his opinion, if he happen to think differently from the jury, is, that he alone is responsible for what he does. "We must all appear before the judgment seat of Christ, that every one may receive the things done in the body, according to that he hath done, whether it be good or bad." The jury cannot answer for him at the day of judgment; the jury cannot be punished for him, if he does wrong.

Look at the case in this light, my friends, and then judge for yourselves whether it is reasonable and right to blame and be displeased with your clergyman, be-

cause, remembering the day of judgment, he endeavours so to act now, that he may not be condemned then.

Suffer me, brethren, in my endeavour to save my soul, and to acquit myself of my duty to you and to God, to do that which, according to the best of my judgment, I believe to be right.

That you may understand how strictly the clergyman has been required to give heed to this particular point, I will read you the rule of the primitive Church respecting it; a rule which has been in the Church for more than fourteen hundred years. In cases where Christian burial is sought for, on the pretence of insanity, for persons who have destroyed themselves, it is said, "the clergyman shall carefully ascertain this, whether it be really so; for, oftentimes, out of a desire of obtaining the oblation for him, the connexions of the deceased misrepresent the case, to show that he was of unsound mind. The clergyman, therefore, ought to investigate it, lest he fall into condemnation¹."

It can hardly be necessary to point out the reasons which demand that the solemn office for the burial of the dead should not be used for those who destroy themselves; they must be obvious to every one. When you return to your houses, read over that office, and judge for yourselves. Take, for instance, those two passages in which it is said, that God has taken the man out of the world. The first, where it is said, "forasmuch as it hath pleased Almighty God, of his

¹ Can. Resp. Tim. Alex. A.D. 380.

great goodness, to take unto himself the soul of our dear brother;" the other, where it is written, "We yield thee hearty thanks, most merciful Father, that it hath pleased thee to deliver this our brother out of the miseries of this sinful world;" and then let, not only every clergyman, but every Christian, who tenders the honour of sacred things, consider whether his heart would not revolt with something like a sense of mockery, in applying these words to one who, being conscious of what he did, waited not for God's summons, but rushed headlong and unbidden into the presence of his Maker, directly contrary to His commands? Or look at those words in which we pray, "that we may rest in Thee, as our hope is this our brother doth." As long as there is a *possibility* for hoping that there may have been repentance, even for a single day, though hope may be reduced to the least possible degree, we should not be justified in refusing to express it, though oftentimes our hearts must feel sad, to think how *little* hope there really is. But how can we use it *at all*, (for the Church does not speak of vague and unfounded hope, but of that Christian hope which rests on the belief of God's promises,) in the case of one who took himself out of the world by an act of sin, which removed all *possibility* of repentance, (for there is no repentance in the grave,) and therefore utterly destroyed all hope according to the Scriptures, which every where teach us, that, without repentance, there is no forgiveness. Is it not clear that nothing will warrant the use of the burial office, according to the truth of Scripture, over one who destroyed himself, unless there be reasonable

ground for believing that he was a madman, and destitute of the use of reason?

But there is another motive which has led the Christian Church, in all ages, to refuse Christian burial to such—and that is, a regard to the safety of others. “For,” as one of the early councils¹ observes, “many presume to do this through ignorance:” *i. e.* being ignorant of the hopeless and desperate nature of such a sin. Therefore it behoves those to whom God has committed the ministry of reconciliation, and who have been appointed by Him to watch for the souls of the people, as they that must give account,—It behoves, I say, the clergy, whom God has intrusted with this charge, to set such a mark upon this sin, that all men may be deterred from it. If the clergy have been instructed to do so, as you have seen they have been, and have failed to do it, as they unquestionably have failed, and the sin, through their neglect, has been increased, I see not by what means they can be excused from their share of the guilt. But mind, I speak not this to condemn others, for who am I that should judge another man’s servant? but I write under the influence of what the Apostle has said, “To him that knoweth to do good, and doeth it not, to him it is sin.” It is very true, that a strict and upright discharge of their duty would probably expose them to ill-will from many who could not understand their motives: but none who valued the honour of God, and the salvation of men, would find fault

¹ Council of Braga.

with them ; or, at any rate, they would not when the matter was explained to them. But, let the ill-will be never so great, let suffering or any persecution follow in consequence, this is no more than the true servants of Christ are in all times taught to expect : and when the alternative is either to suffer persecution, or to shrink from the conscientious discharge of our duty, he who has not learned to obey God rather than man—he who has not the true courage to fear Him who can destroy both soul and body in hell, more than those who kill the body, and after that have no more that they can do, does not yet know what it is to be a Christian.

And now I am told that I shall have to answer for my conduct, both in the spiritual and temporal courts—I am prepared to do so ; and I know not the sentence that awaits me in either.—But this I know, that if it be God's will that I suffer for serving Him faithfully, I can only say His will be done ! and may He give me grace to thank Him for counting such a sinner as I am worthy of so high an honour !

If the temporal courts condemn me, I shall submit as to any other persecution, acknowledging no authority in them to guide me in my spiritual duties. If the spiritual courts condemn me—brethren, until I hear sentence pronounced, I never will believe that those who administer the laws of the Church will punish me for obeying the laws of the Church, which, God knows, is all that I have done.

And now I will say no more. Holding the situation I do, I could not but feel desirous of an oppor-

■ tunity of explaining the grounds and motives of my
- conduct in the face of you all, that you may be better
■ able to form your own opinion concerning it.

And now, brethren, I commend you to God and
to the word of His grace. Of this be assured, that
whether I am allowed to continue with you, or whether I am compelled to depart from you, let me be in what place I may, I shall never lie down at night, nor rise in the morning, without offering my petitions at the throne of grace for your welfare and salvation.

Now to God the Father, Son, and Holy Ghost.

NOTE.

THE definition of the law of *non compos*, as laid down by Lord Hale, is this :—" It is not every melancholy or hypochondriacal distemper that denominates a man *non compos*, for there are few who commit this offence but are under such infirmities : but it must be such an alienation of mind as renders a person to be a madman, or frantic, or destitute of the use of reason, which will denominate him *non compos*."—*I. Hale*, 412.

A learned writer upon the subject says, that " The best rule for a jury to guide themselves by in such a case, is, to judge whether the signs of madness, that are now pretended, would avail to acquit the same person of murdering another man ; if not, there is no reason why they should be urged as a plea for acquitting him of murdering himself."—*Wheatley*.

Chambers, in his Dictionary, explaining the meaning of *non compos mentis*, speaketh thus :—" Of this, in common law, there are said to be four kinds ; first, an IDIOT born : secondly, he that by accident loseth his memory and understanding : thirdly, a LUNATIC, that has lucid intervals, sometimes understanding, and sometimes not : fourthly, he that by his own act, for a time, depriveth himself of his right senses, as a drunkard. But this *last* kind shall give *no* privilege to him, or his heirs."

Let the reader, after considering the law of *non compos*, as set forth by these writers, now attend to the evidence which was offered on this occasion. The only testimony tending to prove insanity was given by one witness, who stated, that on the Sunday preceding, (it had been before proved that the deceased was wholly negligent of all religious duties,) he did not come for his dinner at the usual time, and when he came, was in his week-day clothes, and said that he did not know that it was Sunday, that he looked dull and spoke low, which the witness observed again on Monday. The other witnesses who had seen him every day up to his death, and one of whom had been with

him great part of the morning on which he died, distinctly *swore* that they had seen no difference in him, and that the thought of his being out of his senses never crossed their minds. One of them stated that some time previously the deceased had expressed a wish that he was dead; and on the very morning a few hours before he died, he said, that he should not live to see the grass cut: and that almost the last observation he made was when witness complained of being sleepy, the deceased said he was "more upon thinking than sleeping." Two hours afterwards he was found drowned in a cistern of water, about two feet deep. On the strength of this evidence, the jury, on the part of the laws of the *land*, declared him absolved from the guilt of self-murder: the clergyman, on the part of the laws of *God* and of the *Church*, did not dare to say the same.

Can it be believed that if the juries were instructed by the coroners, as they ought to be, that it is only this extent of madness that will justify such a verdict, one half of such verdicts, that are now, would be returned? Surely not. Whatever in the depraved parts of cities and towns may be the estimation of an oath, a jury in the country, has, in general, far too high a sense of such an obligation to trifle with it, by returning verdicts of insanity, in the absence of all reasonable proof of it. Now, if, through the neglect of the coroners, these unsound verdicts are returned, and numbers are encouraged by them to commit the same desperate sin; let the coroners consider whether they do not thus become partakers in other men's sins, and whether they are *quite sure* that their souls will not be brought into danger by it? For they too, as well as others, must account to God hereafter. No doubt the motive that influences them is a kind and amiable one, and if none would be *injured* by their acting on it, all men would praise them for doing so: but when the souls of numbers of the people are thus enticed to sin, and a great and grievous stumbling block is put in the way of the clergy who desire to act conscientiously; it is not a mistaken feeling of delicacy towards the relatives of the deceased, which can justify them in the sight of God or man, for pursuing a course fraught with such tremendous injury to the eternal interests of their fellow creatures.

Let it be observed, that it is not the cause of Christianity only which is promoted by the course which has been taken on this occasion, it is that of common humanity. For not the Christians only, but the Jews also, nor only Christians and Jews, but even the very heathens, have forbidden accustomed burial to those who destroy themselves. So that, whatever *technical* difficulties I may have to encounter, I have no reason (except where personal animosity may have been excited, or personal interest may be promoted by litigation) to calculate upon the opposition of any man who believes in a God at all. It is only the sceptic and the infidel, only the doubter of all religion, and the embracer of none, who can take satisfaction in endeavouring to crush the single-handed effort of a minister of God to lessen the amount of human misery and of human crime : and that, not after a method of his own devising, but in exact fulfilment of those directions which he promised to obey, and without promising to obey which, he was not admitted to orders, or to office.

If what I have done shall, by God's grace, in any degree, be the means of preserving any single soul from the guilt of self-murder ; if it shall help to save any one family from that cold and unutterable anguish, which looks for comfort and finds none, and which such a deed inflicts upon the near and dear, all the anxiety I have suffered, all the misrepresentation and ill will that I have endured, and all the legal proceedings and penalties with which I am threatened, will be amply, amply repaid.

Let the consequences be what they may, a minister of the Church is in some respects like a minister of the State ; each walks, or should walk, with a rope about his neck ; and deserves to be suspended by it, if, through fear of personal annoyance, he swerve from the course of duty.

It is seldom that any great good is accomplished without some sacrifice. If the great good of diminishing, by a single instance, the frequency of this sin shall, under God's blessing, be effected by what I have done, I shall rejoice at being allowed to be the sacrifice.

ARTHUR PERCEVAL.

East Horsley, June 17, 1833.

May I be allowed to add one observation. It is this, that the circumstances of this case very clearly demonstrate the inexpediency of allowing coroners to practise as attorneys. All the vexatious proceedings which were had recourse to were the result of advice given by the individual who, first, presided at the inquest in his capacity of coroner, and, then, fomented and assisted litigation (arising out of the business of his own court) in his capacity of attorney. Every offer of accommodation on my part (and they were many, even to performing such parts of the service as I could, and only omitting the rest), was met with some such answer as this, "The coroner says we dare not agree to it, and we must obey the coroner's orders." The unfounded fear of some terrible consequences, if they made up the matter, which this person instilled into their minds, had the natural effect of producing ill will, and litigation. But the attorney's advice would (perhaps) hardly have been so much attended to, if it had not been for the apparent authority which his previous office of coroner gave to it. But I forbear. My object is not to inculcate others, but to defend myself. As a misrepresentation of my conduct in this affair has had the round of the public papers, and probably biassed the public mind against me, my wish is, in the first place, to set myself right in the eyes of my countrymen, and, having done that, to forget every thing connected with it, except the consciousness of having done my duty; and the obligation I am under to a friend and neighbouring clergyman, who not entertaining the same scruples as myself, was, at last, permitted to perform the accustomed service. But it was not till every legal process by which it was vainly thought that I might be compelled to sin against God in the face of my people, by forcing my conscience, had been tried and failed, that the assistance of this kind clergyman, which had previously been rejected, was at length reluctantly accepted. May God forgive those who were concerned in this transaction?

THE END.



